

IN THE DRAWINGS:

Please substitute the attached single sheet of drawings, identified as "REPLACEMENT SHEET," for the two sheets of drawings currently on file. The two sheets filed in the amendment of July 20, 2004 have been replaced by the first drawing sheet originally filed, so that Figure 2 is now deleted.

REMARKS

By the foregoing Amendment, the specification and drawings have been amended, Claims 1, 8 and 17 have been amended, and Claims 19-22 have been cancelled. Favorable consideration of the application is respectfully requested.

The Examiner objected to the specification as introducing new matter by adding a Figure 2 and accompanying description, which had been required to be shown and described in the prior Office Action. By this Amendment, Figure 2 and the accompanying description of Figure 2 have been deleted as required by the Examiner, so that it is believed that this objection can now be withdrawn.

The Examiner objected to the drawings as not showing the features in Claim 19 of the exhaust system, secondary exhaust system and valve. The Examiner did not enter the proposed new Figure 2 previously submitted to show the features of Claim 19 on the grounds that the proposed new Figure 2 added new matter. Claims 19-22, also rejected for lack of enablement and for failing to meet the written description requirement, have been cancelled, so that it is believed that this objection can now be withdrawn.

Claims 1, 2, 5-7, 10-12, and 14-16 were rejected under 35 U.S.C. 102(b) on the grounds of anticipation by Polakowski, disclosing a personal watercraft having exhaust pipes which discharge exhaust gases to either side of the hull of the watercraft. Claim 1 has been amended to recite “means for linking said first and second valves together so that opening of one of the first and second valves closes the other of the first and second valves.” The Examiner argued that Polakowski discloses a “means for linking” which

comprises a link 170. The Examiner admitted that moving of the link clockwise from the center position closes one moveable member while leaving the other moveable member in the open position; and that moving the link counter-clockwise from the center closes one moveable member while leaving the other moveable member in the open position.

The Examiner further argued that moving the link from a fully rotated clockwise position to a fully rotated counter-clockwise position results in the closing of one moveable member and the opening of the other moveable member, and vice versa, so that the link 170 constitutes a means for linking the valves such that opening one valve closes the other. It is respectfully submitted that the Examiner's position is incorrect. Moving the link from a fully rotated clockwise position to a fully rotated counter-clockwise position, and moving the link from a fully rotated counter-clockwise position to a fully rotated clockwise position both cause the link to pass through the center position in which both moveable members are both open. From a position in which one valve is open and the other is closed, movement of the link to a center position simply opens both valves. Further movement of the link in the same direction moves the valves from a position in which both valves are open to a position in which one valve is open and the other is closed. What Polakowski teaches is that closing of one valve leaves the other already opened valve open, but not that opening of one valve closes the other, because opening of a valve from a closed position has no effect on the other valve. Opening of a valve in Polakowski could have the effect of closing the other valve if Polakowski included a mechanical linkage of rigid link members coupled between the movable members 104 and 112, but the link 170 is connected to the movable members by tethers 174 and 176

which will only pull the movable members down, and which will not push the movable members up. What brings both of the movable members to an open position when the tethers are released from a downward position is clearly the springs biasing the lever arms 106 and 114 to ordinarily stay in the open position and to evenly distribute the exhaust gases between the right and left exhaust pipes, as pointed out in Polakowski at column 10, lines 2-5. It is therefore respectfully submitted that Polakowski does not teach, disclose or suggest a means for linking first and second valves together so that opening of one of the first and second valves closes the other of the first and second valves.

With regard to Claim 10, the Examiner argued that Polakowski claims all the elements recited. Claim 10 recites "valve means connected to said first and second exhaust conduits for directing the engine exhaust out of one of the port and starboard exhaust outlets, such that directing the engine exhaust out of one of the exhaust outlets prevents directing the engine exhaust out of the other of the exhaust outlets." As noted above, the link 170 in Polakowski has a center position in which both valve movable members are open, so that opening either one does not close the other. What Polakowski provides is that closing of one of the valves has no effect on the open position of the other valve, so that preventing exhaust from being directed out one port has no effect on directing exhaust out the other port. This is not what is claimed. It is respectfully submitted that Polakowski does not teach, disclose or suggest valve means connected to first and second exhaust conduits for directing the engine exhaust out of one of the port and starboard exhaust outlets, such that directing the engine exhaust out of one of the

exhaust outlets prevents directing the engine exhaust out of the other of the exhaust outlets, as is recited in Claim 10.

Further with regard to Claim 5, the Examiner argued that the means for linking comprises a mechanical linkage 170 between the valves. Claim 5 recites "wherein the means for linking comprises a mechanical linkage between said first and second valves." According to the McGraw-Hill Dictionary of Scientific and Technical Terms, Fifth Edition, 1994, at p. 1230, a copy of which is attached, the definition of "mechanical linkage" is "A set of rigid bodies, called links, joined together at pivots by means of pins or equivalent devices." It is respectfully submitted that the link 170 is only connected to the valves by tethers 174 and 176 which are not rigid, so that Polakowski does not teach, disclose or suggest that the means for linking, which in Claim 1 is recited as "means for linking said first and second valves together," is a mechanical linkage.

It is therefore respectfully submitted that Claims 1, 2, 5-7, 10-12, and 14-16 are novel and inventive over Polakowski, and that the rejection of Claims 1, 2, 5-7, 10-12, and 14-16 on the grounds of anticipation by Polakowski should be withdrawn.

Claims 4, 13, 8, 9, 17 and 18 were rejected under 35 U.S.C. 103(a) on the grounds of obviousness from Polakowski. Regarding Claims 4 and 13, the Examiner argued that it was disclosed that an earlier embodiment in Figure 8 could utilize "either mechanical valves and controller or electrical valves and control electronics including a switch." A switch is not claimed in Claims 4 and 13. Claim 4 recites "wherein the first and second valves are electrically controlled valves, and the means for linking the first and second valves comprises a controller unit for opening one of said first and second valves and

closing the other of said first and second valves." Claim 4 depends from Claim 1. As noted above, Polakowski does not teach, disclose or suggest a means for linking first and second valves together so that opening of one of the first and second valves closes the other of the first and second valves, as is recited in Claim 1. Claim 13 depends from Claim 10. As noted above with regard to Claim 10, Polakowski does not teach, disclose or suggest valve means connected to first and second exhaust conduits for directing the engine exhaust out of one of the port and starboard exhaust outlets, such that directing the engine exhaust out of one of the exhaust outlets prevents directing the engine exhaust out of the other of the exhaust outlets.

With regard to method Claims 8, 9, 17 and 18, the Examiner argued that the method steps claimed were inherent in the making and use of the Polakowski apparatus. Claims 8 and 17 recite "controlling a flow of engine exhaust to permit the flow of engine exhaust through one of the first and second exhaust conduits, such that directing the engine exhaust out of one of the exhaust conduits prevents directing the engine exhaust out of the other of the exhaust conduits." As noted above, what Polakowski teaches is that closing of one valve leaves the other already opened valve open, but not that opening of one valve closes the other, or that directing exhaust out of one conduit prevents directing exhaust out the other, because opening of a valve from a closed position has no effect on the other valve, and directing exhaust out one conduit has no effect of preventing exhaust flow out the other conduit.

It is therefore respectfully submitted that Claims 4, 13, 8, 9, 17 and 18 are novel and inventive over Polakowski, and that the rejection of Claims 4, 13, 8, 9, 17 and 18 on the grounds of obviousness from Polakowski should be withdrawn.

In light of the foregoing amendments and remarks, it is respectfully submitted that the application should now be in condition for allowance, and an early favorable action in this regard is respectfully requested.

Respectfully submitted,

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Replacement drawing sheet

Excerpt, p. 1230, McGraw-Hill Dictionary of Scientific and Technical Terms

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